

HONORABLE BRIAN D. LYNCH

HEARING DATE: WEDNESDAY, DECEMBER 18, 2019
HEARING TIME: 9:00 A.M.
LOCATION: TACOMA, COURTROOM I
RESPONSE DATE: WEDNESDAY, DECEMBER 11, 2019

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re

PUGLIA ENGINEERING, INC.,

Debtor.

No. 18-41324-BDL

FIRST AND FINAL APPLICATION FOR
COMPENSATION BY DEVITT D.
BARNETT, SPECIAL COUNSEL

Devitt D. Barnett and Thorson Barnett & McDonald PC, (no longer in existence) were appointed as Special Counsel to Puglia Engineering, Inc., debtor in the above-captioned bankruptcy, makes this interim application (“Application”) for compensation and reimbursement for services rendered and expenses incurred in this case for the time period of April 14, 2018 through February, 2019, as detailed on Exhibit A hereto, respectfully requests this Court enter an Order allowing it fees in the amount of \$13,517.01 and costs in the amount of \$33.76, for a total award of \$13,550.77. In support of this Application, Devitt D. Barnett (the former president of Thorson Barnett & McDonald PC.) represents as follows:

1. Order Authorizing Employment. On July 28, 2018, the Court entered an order authorizing the Debtor to employ Mr. Barnett and Thorson Barnett & McDonald PC. to provide the Debtor with legal services effective as of August 17, 2018 (Docket No. 355).

FIRST AND FINAL APPLICATION FOR COMPENSATION
BY THORSON BARNETT & MCDONALD PC. SPECIAL
COUNSEL – Page 1

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1 2. Amounts Received from Prior Fee Applications. Neither Mr. Barnett, nor Thorson
2 Barnett & McDonald PC., has previously applied for compensation or reimbursement of expenses in
3 the case. Pursuant to the procedures set forth in the Order Establishing Procedures for Interim
4 Payment of Fees and Costs to Professionals (Dkt. No. 345) Thorson Barnett & McDonald PC. has
5 received 80% of its fees and 100% of its costs for the time period of August 18 – November 2018 in
6 the total amount of \$9,023.37.

7 3. Amount of Fees and Costs Currently Requested. Devitt D. Barnett (formerly
8 withThorson Barnett & McDonald PC.) brings this Application for interim approval of the funds
9 received, and award of the remaining unpaid fees and costs of \$4,527.40.

10 4. Source of Payment for Requested Compensation. Devitt D. Barnett seeks
11 compensation from the unencumbered funds of the estate.

12 5. Summary of Services Provided for the Benefit of the Estate. Devitt D. Barnett and
13 Jeffrey C. Curnutt provided legal services and counsel to Mr. Jim Day throughout the bankruptcy
14 process involving "ERISA" and "Withdrawal Liability" advice concerning "controlled group liability"
15 and "successor liability" for the parties involved in the ownership and existing structure of the entities
16 in the bankruptcy, and an overall review and subsequent advice regarding issues pertaining directly to
17 the "acquisition" of entities by the parties involved in the bankruptcy. Advice also included a
18 comparison of exceptions available under ERISA/MPPAA 4225 for an "asset sale" vs other sales
19 techniques, and the resulting impact on withdrawal liability. Both Mr. Barnett and Mr. Curnutt were
20 asked to review and complete legal research of case authority on withdrawal liability issues, and
21 discuss the cases with Mr. Jim Day in order to assist him in formulating ideas for resolving the
22 bankruptcy issues under consideration.
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1 A complete and detailed account of the services rendered and fees and costs incurred is attached
2 hereto as Exhibit A.

3 6. Tasks remaining and Projection of Future Fees and Expenses.

4 7. The services provided and costs incurred on Exhibit A were performed on behalf of the
5 Debtor and not on behalf of a creditor or other entity herein.

6 8. Pursuant to 11 U.S.C. § 504, Devitt D. Barnett (former President of Thorson Barnett &
7 McDonald PC.) will not share such compensation or reimbursement of expenses applied for herein
8 with any other person or firm.

9 DATED this 25th day of November, 2019.

10 DEVITT D. BARNETT

11 By /s/ Devitt D. Barnett

12 Devitt D. Barnett, former president of Thorson
13 Barnett & McDonald, P.C.

14 **DECLARATION**

15 I am one of the professionals responsible for the services rendered the Debtor in the above-
16 captioned bankruptcy. I have personal knowledge of the facts stated herein, and I am competent to
17 testify to them. I make this affidavit in conformance with applicable sections of the Bankruptcy Code
18 and Federal and Local Rules of Bankruptcy Procedure. I am the former President of Thorson Barnett
19 & McDonald PC, (no longer in existence) previously located at 3315 Two Union Square, Seattle
20 Washington 98101. I was the primary ERISA lawyer handling the Puglia matter, and was also
21 assisted by Jeffery Curnutt in providing ERISA advice in the bankruptcy case that is the subject of
22 these pleadings. I resigned from the Law Firm effective September 30, 2019, and have sole
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1 possession of all files relating to the Puglia matter, and am the only individual with authority to
2 negotiate, compromise and/or settle any outstanding invoices on legal services rendered by myself and
3 Mr. Curnutt. Further, I also confirm that Mr. Curnutt has been fully compensated for all legal services
4 he provided in this matter, and the residual billing, if any, on accumulated invoices is attributable to
5 work for which I was the controlling/responsible attorney. No other former attorney at Thorson
6 Barnett & McDonald PC performed any legal services on the Puglia matter, and no other attorney has
7 authority to negotiate, compromise and/or settle any outstanding invoices relating to the Puglia matter.
8 Once payment is settled, and residual amounts should be sent c/o Devitt D. Barnett 1201 Pacific
9 Avenue, Suite 1200, Tacoma, Washington 98402.

10 I declare under penalty of perjury under the laws of the State of Washington that the foregoing
11 is true and correct.

12 DATED this 25th day of November, 2019.

13 By /s/ Devitt D. Barnett
14 Devitt D. Barnett
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